Study Finds Disparities in Judges' Asylum Rulings

By RACHEL L. SWARNS

WASHINGTON, July 30 — An examination of thousands of immigration cases has found wide disparities in the rate at which judges grant asylum to people seeking haven in the United States, according to a study released Sunday by a private research group.

One judge in Miami denied 96.7 percent of the asylum cases before him in which the petitioner had a lawyer. It was the highest denial rate in the nation between the beginning of the fiscal year 2000 and the first few months of fiscal year 2005 , the study found. In contrast, a New York judge granted asylum in all but 9.8 percent of such cases.

Ten percent of the nation's immigration judges denied asylum cases in 86 percent or more of their decisions, while another 10 percent of judges denied asylum cases in 34 percent of their rulings during that same time period, the study found.

The report, which examined 297,240 immigration cases from fiscal year 1994 through the first few months of fiscal year 2005, was done by the Transactional Records Access Clearinghouse, a research group connected to Syracuse University. The data was collected from the Justice Department, which oversees the nation's immigration courts.

Because of factors that included changes in immigration law, the clearinghouse divided the asylum cases into two groups, those decided from 1994 to 1999, and those decided from 2000 to 2005.

The study found wide variations in how different nationalities were treated. It reported that more than 80 percent of asylum seekers from Haiti and El Salvador were denied asylum for the period beginning in 2000, while fewer than 30 percent of asylum seekers from Afghanistan or Myanmar, formerly Burma, were denied.

David Burnham, co-director of the research group, said the findings seemed to call into question the government's "commitment to providing a uniform application of the nation's immigration laws in all cases.''

Mr. Burnham said a copy of the report had been provided to the Justice Department. A spokesman for the Justice Department did not return calls for comment on Sunday.

The study echoes a report released last year by the United States Commission on International Religious Freedom, an agency created by Congress in 1998. The commission study, which examined the processing of asylum cases from 2000 through 2004, found that more than 80 percent of Cubans were given a permanent right to stay in the United States, along with more than 60 percent of Iraqis. By contrast, just more than 10 percent of those from Haiti and fewer than 5 percent from El Salvador were granted asylum.

That study also found that only 2 percent of asylum seekers without a lawyer were granted asylum, compared with 25 percent of those who had a lawyer.

The study by Mr. Burnham's group found that 7 percent of asylum seekers lacking legal representation won asylum, compared with 36 percent of those with lawyers.

The handling of asylum cases has become a delicate issue recently as federal appeals judges have assailed what they have described as a pattern of biased and incoherent decisions from immigration judges in asylum cases, which make up the bulk of immigration appeals.

In September, the federal appeals court in Philadelphia said it had been repeatedly forced to rebuke immigration judges for "intemperate and humiliating remarks." Citing cases from around the country, the court described "a disturbing pattern" of misconduct in immigration rulings that sent people back to countries where they had said they would face persecution.

In November, Richard A. Posner, a prominent and relatively conservative federal appeals court judge in Chicago, concluded that the handling of asylum cases by immigration judges had "fallen below the minimum standards of legal justice."

Concerned about what he described as "intemperate or even abusive" conduct by some immigration judges, Attorney General Alberto R. Gonzales called for a comprehensive review of the immigration court system in January.